

Davis, et al.

v. Mountaire Farms, Inc., et al.

January 27, 2005

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<p>1 Q. And is that your signature?</p> <p>2 A. Yes.</p> <p>3 Q. Mr. Foreman again is requesting, it</p> <p>4 looks to me, like a floating holiday, personal</p> <p>5 day?</p> <p>6 A. Yes.</p> <p>7 Q. And he only wants the money?</p> <p>8 A. Yes.</p> <p>9 Q. Is that your signature?</p> <p>10 A. Yes.</p> <p>11 Q. And you approved that?</p> <p>12 A. Yes.</p> <p>13 Q. Mr. Foreman again is requesting</p> <p>14 another day. Is that your signature, sir?</p> <p>15 A. Yes.</p> <p>16 Q. And you approved that request?</p> <p>17 A. Yes.</p> <p>18 Q. Mr. Jackson, do you know Mr. Jackson?</p> <p>19 A. Yes.</p> <p>20 Q. How do you know him?</p> <p>21 A. He was one of my crew members.</p> <p>22 Q. And he is requesting a floating</p> <p>23 holiday?</p> <p>24 A. Yes.</p>	<p>1 Q. Is that your signature?</p> <p>2 A. No.</p> <p>3 Q. Let's go to the next one with</p> <p>4 Mr. Jarman. Is that your signature at the</p> <p>5 bottom?</p> <p>6 A. No.</p> <p>7 Q. Do you have any ideas whose that is?</p> <p>8 A. No.</p> <p>9 Q. All right, let's go to the next one,</p> <p>10 Mr. Matthews. Is that your signature at the</p> <p>11 bottom?</p> <p>12 A. No.</p> <p>13 Q. I'm sorry, I didn't hear you, sir.</p> <p>14 A. No.</p> <p>15 Q. Okay, let's go to the next one with</p> <p>16 Mr. Matthews. Is that your signature?</p> <p>17 A. No.</p> <p>18 Q. And Mr. Matthews again, is that your</p> <p>19 signature?</p> <p>20 A. Yes.</p> <p>21 Q. Okay, and do you know a Mr. Matthews?</p> <p>22 A. Yes.</p> <p>23 Q. How do you know him?</p> <p>24 A. He is another one of the crew members.</p>
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<p>1 Q. He only wants the money, though?</p> <p>2 A. Yes.</p> <p>3 Q. And is that your signature?</p> <p>4 A. Yes.</p> <p>5 Q. Again, Mr. Jackson is asking for</p> <p>6 vacation, one week of vacation, but he only wants</p> <p>7 money?</p> <p>8 A. Yes.</p> <p>9 Q. Is that your signature?</p> <p>10 A. Yes.</p> <p>11 Q. You approved that. Is this</p> <p>12 Mr. Tarman, is that T-A-R-M-A-N?</p> <p>13 A. Jarman.</p> <p>14 Q. Jarman, J-A-R. Do you know a</p> <p>15 Mr. Jarman?</p> <p>16 A. Yes.</p> <p>17 Q. How do you know him?</p> <p>18 A. He is one of my crew members.</p> <p>19 Q. And he is requesting a day off, a</p> <p>20 floating holiday, an anniversary holiday of some</p> <p>21 type?</p> <p>22 A. Yes.</p> <p>23 Q. And he only wants the money?</p> <p>24 A. Yes.</p>	<p>1 Q. And he is requesting a day off, but he</p> <p>2 only wants the money for it?</p> <p>3 A. Right, yes.</p> <p>4 Q. And you approved that?</p> <p>5 A. Yes.</p> <p>6 Q. How about Mr. Mitchell, is that your</p> <p>7 signature at the bottom?</p> <p>8 A. No.</p> <p>9 Q. Okay. And the next one is</p> <p>10 Mr. Phillips. Do you know Mr. Phillips?</p> <p>11 A. Phillips?</p> <p>12 Q. Phillips, yes. It should be the page</p> <p>13 after Mitchell.</p> <p>14 A. Matthews, Phillips, okay.</p> <p>15 Q. Do you know him?</p> <p>16 A. Yes.</p> <p>17 Q. How do you know him?</p> <p>18 A. Well, he was my forklift driver.</p> <p>19 Q. He was your forklift driver?</p> <p>20 A. At one time.</p> <p>21 Q. Okay, and he is requesting -- Is that</p> <p>22 your signature, by the way, at the bottom?</p> <p>23 A. Approved, but not my signature.</p> <p>24 Q. You approved it? Did you approve this</p>

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Lorena J. Hartnett, R.P.R.

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1 but it's not your signature? Is that what you  
 2 are saying?  
 3 A. Yes.  
 4 Q. How about a Mr. Taylor?  
 5 A. Yes.  
 6 Q. Is that your signature at the bottom?  
 7 A. Yes.  
 8 Q. Okay, he wants a day off for money  
 9 only?  
 10 A. Yes.  
 11 Q. And, let's see, almost done here, a  
 12 Richard Foreman, do you know him?  
 13 A. Yes.  
 14 Q. How do you know him?  
 15 A. One of my crew members.  
 16 Q. And he is requesting vacation, and he  
 17 is also requesting a floating holiday?  
 18 A. Yes.  
 19 Q. And he is requesting only to be paid  
 20 for it, he will continue to work? Am I correct  
 21 in that?  
 22 A. Yes.  
 23 Q. Is that your signature?  
 24 A. No.

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1 Q. That's not your signature?  
 2 A. No.  
 3 Q. All right, and Mr. Foreman again, is  
 4 that your signature at the bottom?  
 5 A. No.  
 6 Q. Okay. Did you approve -- Do you know  
 7 about this? Did you approve this?  
 8 A. I don't remember.  
 9 Q. Okay, how about the one before with  
 10 Mr. Foreman, do you remember that, it was in  
 11 February of '02?  
 12 A. I don't remember.  
 13 Q. Okay, that's fine. Let me ask you  
 14 this question: If a member of your crew wanted  
 15 to take a day off without pay, can he do that?  
 16 A. Yes.  
 17 Q. Okay, what does he have to do to do  
 18 that?  
 19 A. If he notifies me, if it's not too  
 20 late and within reasonable time, some of these  
 21 times I would notify my manager --  
 22 Q. Uh-huh.  
 23 A. -- and we would try to work something  
 24 out about getting somebody to replace him, but he

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1 could take that day off.  
 2 Q. He could take that day off. Now, what  
 3 happens if he wants to take the day off and  
 4 doesn't tell you about it, just doesn't show up?  
 5 A. He still don't get paid, and we follow  
 6 the same procedure as trying to get somebody.  
 7 Q. Do you give him any disciplinary  
 8 action for not showing up?  
 9 A. Yes, but I would sometimes give them a  
 10 verbal warning and notify my manager.  
 11 Q. Okay.  
 12 A. Whatever the case may be.  
 13 Q. But if somebody asked for a day off  
 14 and you approved it, he wouldn't get a verbal  
 15 warning, would he?  
 16 A. Could you repeat your question?  
 17 Q. Sure. If a member of your crew wants  
 18 to have a day off and doesn't want to be paid for  
 19 it, I want to take a day off without pay, I  
 20 notify you, you say okay, I don't get a verbal  
 21 warning then?  
 22 A. No.  
 23 Q. Okay. The people who worked on your  
 24 crew, while we saw these in Garrison, in, I'm

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1 sorry, Briddell Exhibit Number 2, Number 1, I'm  
 2 sorry, you saw that a lot of people were  
 3 requesting to be paid instead of taking the time  
 4 off. People in your crew did take vacation,  
 5 didn't they?  
 6 A. Sometimes.  
 7 Q. Okay, and did you approve their  
 8 vacation?  
 9 A. If I had the help, yes.  
 10 Q. Okay, and, if you didn't, you  
 11 wouldn't?  
 12 A. No.  
 13 Q. Can you tell me this: What happens if  
 14 somebody who is working on your crew, when you  
 15 were a crew leader, if they got hurt? What would  
 16 you do?  
 17 A. I would follow company policy. But  
 18 then, again, if I would be near a physician, I  
 19 would take them. But the company wants you to  
 20 see that they get to the processing plant. And,  
 21 if I could, I would get them to the processing  
 22 plant.  
 23 Q. Okay.  
 24 A. But if I was near a hospital, I would

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Lorena J. Hartnett, R.P.R.

(302) 426-1007 or 736-3661

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1 proceed to the hospital.  
 2 Q. You would take the person to the  
 3 hospital to get treated?  
 4 A. Yes.  
 5 Q. Okay. Could you also call 911 if  
 6 something happened at a farm?  
 7 A. Yes.  
 8 Q. Let's go back for just a second,  
 9 because I want to see if I understand how you  
 10 worked it on your crew.  
 11 If one of your catchers wanted a day  
 12 off without pay and you only had seven and you  
 13 didn't think you could spare him, did you ever  
 14 call another crew leader, like Mr. Gibbs or  
 15 Mr. Garrison, and say, "Listen, one of my guys  
 16 wants a day off tomorrow or the next day, do you  
 17 have somebody you can send me?" Would anything  
 18 like that ever happen?  
 19 A. Yes.  
 20 Q. Okay. And if they said, "Yeah, I have  
 21 somebody I could send you," you could say to the  
 22 guy, "Okay, you can have the day off."  
 23 A. Yes.  
 24 Q. And would it be the reverse? Did it

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1 ever happen that you got a call from another crew  
 2 leader saying, "I have got a guy who would like a  
 3 day off, do you have somebody you could send me?"  
 4 A. Yes.  
 5 Q. And, if you could, you would?  
 6 A. Yes.  
 7 Q. Okay. When you are out on the farm,  
 8 when you are catching, do catchers take a break?  
 9 A. At times.  
 10 Q. Okay.  
 11 A. It wasn't a scheduled break.  
 12 Q. Uh-huh, I understand that. But I mean  
 13 if somebody is in there catching and all of a  
 14 sudden they need to stop, they have to go to the  
 15 bathroom --  
 16 A. Yes.  
 17 Q. -- they can take that break?  
 18 A. Yes.  
 19 Q. And they let you know that they are  
 20 doing that?  
 21 A. Not all the time.  
 22 Q. But they do sometimes?  
 23 A. Yes.  
 24 Q. Should they notify you that they are

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1 doing that?  
 2 A. Yes.  
 3 Q. Okay, and the same thing if somebody  
 4 wanted to have a smoke, same thing?  
 5 A. Yes.  
 6 Q. All right. The catchers receive a one  
 7 half hour lunch break; correct?  
 8 A. No.  
 9 Q. No?  
 10 A. No.  
 11 Q. They are supposed to, aren't they?  
 12 A. I don't know.  
 13 Q. You don't know?  
 14 A. No.  
 15 Q. Well, from the time that you were  
 16 catching in '89 until '03, did your people ever  
 17 take a lunch break?  
 18 A. Yes.  
 19 Q. When did they take their lunch break?  
 20 A. Whenever -- Say if I was catching  
 21 chickens in Crisfield --  
 22 Q. Uh-huh.  
 23 A. -- and my manager sent me three  
 24 trucks, it would take 45 minutes to load a truck.

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1 That first truck cannot travel from Crisfield to  
 2 Selbyville and back to Crisfield before they  
 3 catch the other two. That's when they would take  
 4 their lunch break or some lunch of sort.  
 5 Q. And who would tell them when to take  
 6 that break?  
 7 A. You took it on your own because they  
 8 didn't have nothing to work with. They didn't  
 9 have a truck there.  
 10 Q. Okay, I see, so there was nothing that  
 11 they could do?  
 12 A. There was nothing they could do.  
 13 Q. Normally the trucks are backed up,  
 14 aren't they, one waiting for another?  
 15 A. Starting off, yes, depending on how  
 16 far you are from the processing plant.  
 17 Q. Uh-huh.  
 18 A. And the working conditions.  
 19 Q. Okay. So, as long as there was a  
 20 truck there, they kept working?  
 21 A. Kept working.  
 22 Q. And when there wasn't a truck there  
 23 and they couldn't work, you are saying that's  
 24 when you told them to take lunch?

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Lorena J. Hartnett, R.P.R.

(302) 426-1007 or 736-3661

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1 A. The majority of the time.  
 2 Q. Okay. And is that how it worked from  
 3 all the time that you were a crew leader?  
 4 A. Basically, yes.  
 5 Q. Okay. Just to make sure that I  
 6 understand your testimony here, that is the only  
 7 half an hour -- Well, that's the only lunch break  
 8 your crew took?  
 9 A. Sometimes it could happen two or three  
 10 times a day, waiting on trucks, and that's when  
 11 they would eat.  
 12 Q. Okay.  
 13 A. Travel time, that's when they would  
 14 eat. Most of the time they would bring their  
 15 lunch. A lot of times they would bring their  
 16 lunch.  
 17 Q. Uh-huh. Well, when you began, when  
 18 you picked up your crew, you had an order that  
 19 you picked your people up in, didn't you?  
 20 A. Yes.  
 21 Q. And after you got pretty much all of  
 22 the crew together, let me ask you -- Let me  
 23 retract that statement and ask you this: Did any  
 24 members of your crew get themselves to the farms,

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1 transport themselves to the farms?  
 2 A. Yes.  
 3 Q. Okay, so how many people did you have  
 4 to pick up?  
 5 A. Six, probably six every day.  
 6 Q. Okay.  
 7 A. There was times when I picked up the  
 8 whole, down through the years.  
 9 Q. Okay, but mostly it was five or six?  
 10 A. Or seven.  
 11 Q. Five, six or seven?  
 12 A. Yeah.  
 13 Q. But seven was your entire crew?  
 14 A. Chicken catchers.  
 15 Q. Right. Okay, let's talk about when  
 16 you picked up the five -- After you got the five,  
 17 six or seven that you picked up and you are  
 18 traveling on the way to the farm, was it normal  
 19 to stop someplace to get a cup of coffee --  
 20 A. Yes.  
 21 Q. -- get cigarettes, get a sandwich --  
 22 A. Yes.  
 23 Q. -- do this, do that? And how long did  
 24 those stops take, approximately?

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1 A. Ten to 15 minutes.  
 2 Q. That's all? Did people ever eat there  
 3 at that point?  
 4 A. No.  
 5 Q. No? Okay. Then you would go to the  
 6 farm?  
 7 A. Yes.  
 8 Q. And when you would go from one farm to  
 9 another, did you ever -- It's normal to stop  
 10 again, isn't it, --  
 11 A. Yes.  
 12 Q. -- if a place is around? And how long  
 13 did those stops last generally?  
 14 A. Ten, 15 minutes.  
 15 Q. Ten, 15 minutes?  
 16 MR. BREWER: This would be a good time  
 17 for a break. It's three minutes of noon.  
 18 Your lawyer will tell you that during the  
 19 lunch break, obviously, you can chat about,  
 20 even she can chat about anything at all you  
 21 like except the deposition. Okay, so we  
 22 will take a break and see you back -- We  
 23 will take about an hour lunch break.  
 24 (A lunch recess was taken.)

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1 BY MR. BREWER:  
 2 Q. Okay, let's go. Mr. Briddell, let me  
 3 ask you this question, if I may: Could you  
 4 recommend the promotion of one of the catchers to  
 5 be a forklift operator?  
 6 A. No.  
 7 Q. You couldn't do that?  
 8 A. Could I? Oh, let me rephrase it. You  
 9 said could I recommend?  
 10 Q. Yes.  
 11 A. Yes, I could ask Doug about it, yes.  
 12 Q. We had talked earlier about your  
 13 giving some oral reprimands to people for various  
 14 reasons. Did you ever give anybody anything more  
 15 than an oral reprimand?  
 16 A. Yes.  
 17 Q. Okay, do you remember who, by any  
 18 chance?  
 19 A. Charles Hitchens.  
 20 Q. Okay. Do you remember when that was?  
 21 A. No.  
 22 Q. Okay. Anybody else you can think of?  
 23 And I understand -- Again, I understand I am  
 24 asking you to go back in time. There may have

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<p>1 been others and you can't remember their names,  2 and that's fine.  3 A. No.  4 Q. You can't remember anybody else?  5 A. No.  6 Q. Let me ask you this question: When  7 you finished one farm and you are assigned to go  8 to another farm, you have the authority to make  9 sure that the crew works to get all the chickens  10 caught that you are supposed to get caught that  11 day, don't you?  12 A. Yes.  13 Q. And if that involves overtime, you  14 have the right to make sure that they still get  15 caught; right?  16 A. Yes.  17 Q. Let me show you, this is Exhibit 6 to  18 Mr. Garrison's deposition. You have a copy of  19 that, I believe.  20 MR. MARTIN: Yep.  21 MR. BREWER: And take a look at page  22 nine. Off the record a moment.  23 (An off-the-record discussion  24 was held.)</p>	<p>1 were, for example, catchers, because when you  2 were a crew leader you weren't covered by this  3 contract, were you?  4 A. No.  5 Q. The catchers were, though?  6 A. Yes.  7 Q. All right. So it says here a  8 complaint or a grievance arising out of this  9 interpretation, and so forth, shall in the first  10 instance be taken up between the aggrieved  11 employee, which, in your case, would be a  12 catcher, right --  13 A. Uh-huh.  14 Q. -- or catchers, who take the matter up  15 with the shop steward, and then the shop steward  16 takes the matter up with the foreman in charge;  17 right?  18 A. Yes.  19 Q. So if one of your catchers had a  20 grievance, they would take it up with the  21 steward, and then the steward, in fact, an  22 employee, would take it up with you as a crew  23 leader?  24 A. They were supposed to.</p>
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<p>1 BY MR. BREWER:  2 Q. We went off the record. Let's go back  3 on. Sir, I am showing you a document that's been  4 marked as Exhibit Number 6 to Mr. Garrison's  5 deposition, and you are at page nine of that  6 document?  7 A. Yes.  8 Q. First of all, do you recognize this  9 document?  10 A. No.  11 Q. Okay, look at the front cover. Keep  12 that page you are at and just take a look at the  13 front cover.  14 A. Yes, yes.  15 Q. It's a union contract?  16 A. Yes, uh-huh.  17 Q. Okay, and right now you are a shop  18 steward for Local 355; are you not?  19 A. Yes.  20 Q. Okay, take a look at the first  21 paragraph under Article 10. It says a complaint  22 or grievance. Do you see where I am?  23 A. Yes, uh-huh.  24 Q. So these would apply to people who</p>	<p>1 Q. Yeah, they were supposed to. That's  2 what this contract says they are?  3 A. Yes.  4 Q. All right, let's see. You were  5 required to write down the time that your crew  6 started at a farm?  7 A. Yes.  8 Q. And you kept the time that the  9 catchers worked at the farm?  10 A. Did I keep the time that the catchers  11 worked? Are you pertaining to the time they  12 start until the time they end for that day?  13 Q. Yes, from the time they start --  14 A. Yes.  15 Q. -- and the number of chickens they  16 caught and everything else?  17 A. Yes.  18 Q. Thank you. Let me show you Exhibit  19 Number 8 to Mr. Garrison's deposition. Have you  20 ever seen this before?  21 A. I don't remember.  22 Q. Okay. You were a crew leader at this  23 time?  24 A. Yes.</p>

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Lorena J. Hartnett, R.P.R.

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1 Q. Okay, so you may have gotten it and  
 2 you may not have; you just don't remember?  
 3 A. I don't remember.  
 4 Q. Okay, that's fine. When you were a  
 5 crew leader and your crews were working at a  
 6 farm, did you have any responsibility for the  
 7 safety of the catchers, making sure that they  
 8 worked safely?  
 9 A. Could you say that again?  
 10 Q. Yeah, when you were a crew leader, did  
 11 you have any responsibility to make sure that the  
 12 catchers worked safely, that they did things in a  
 13 safe way?  
 14 A. Yes.  
 15 Q. Okay. Now, let me show you what is  
 16 exhibit -- Oh, before I do that, let me ask you  
 17 this question: When you went on salary, do you  
 18 remember when that was?  
 19 A. No.  
 20 Q. If I suggest to you it was June of  
 21 2002, would that seem correct to you?  
 22 A. Yes.  
 23 Q. All right, do you remember what salary  
 24 you were paid?

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1 A. Per year?  
 2 Q. Yes.  
 3 A. Per week?  
 4 Q. Per week, per year, what your salary  
 5 was?  
 6 A. I would say 40,000, somewhere in that  
 7 neighborhood.  
 8 Q. A week?  
 9 A. No, a year.  
 10 Q. Four-thousand a year?  
 11 A. Forty-thousand.  
 12 Q. Oh, 40,000 a year. And do you  
 13 remember how much, when you were a catcher, how  
 14 much catchers made a year?  
 15 A. Catchers made -- I don't remember.  
 16 Q. Was it less than you?  
 17 A. Yes.  
 18 MR. MARTIN: I'm sorry, when you say  
 19 "less than you," you are talking about less  
 20 than a crew leader?  
 21 MR. BREWER: Less than him, yes, less  
 22 than you as a crew leader.  
 23 BY MR. BREWER:  
 24 Q. Did you ever have to account for your

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1 time at all in any way?  
 2 A. What do you mean, prove to them?  
 3 Q. Yeah.  
 4 A. No.  
 5 Q. Let me give you what has been marked  
 6 as Exhibit Number 9 to Mr. Garrison's deposition.  
 7 This is the benefit program that's available to  
 8 salaried employees.  
 9 Okay, and I will also give you this  
 10 document, which is Exhibit Number 10 to  
 11 Mr. Garrison's deposition, and this is for the  
 12 people who are hourly catchers, those covered by  
 13 the union contract that we just discussed. Okay?  
 14 Just keep those in front of you.  
 15 Now I am going to give you this  
 16 document, and I guess we will make this number  
 17 three to your deposition.  
 18 (The reporter marked Briddell  
 19 Exhibit 3.)  
 20 BY MR. BREWER:  
 21 Q. Keep those three documents in front of  
 22 you, but what this is, Mr. Briddell, is the  
 23 difference in the benefit plans for the salaried  
 24 people versus the hourly people.

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1 MR. MARTIN: If I may ask a question,  
 2 is this different from the exhibit used in  
 3 Mr. Gibbs' deposition last time?  
 4 MR. BREWER: No, it is not.  
 5 MR. MARTIN: Okay.  
 6 BY MR. BREWER:  
 7 Q. Okay, I'm sorry for the distraction.  
 8 This is the difference between the hourly  
 9 benefits --  
 10 A. Uh-huh.  
 11 Q. -- and the benefits that the salaried  
 12 people receive. And I am just going to ask you,  
 13 if you wouldn't mind, take a look at it, okay,  
 14 and then take a look at, if you need to, Exhibit  
 15 Number 9 and this other one that I gave you.  
 16 MR. MARTIN: Exhibit Number 10?  
 17 MR. BREWER: Exhibit 10, that's right.  
 18 MR. MARTIN: From the Garrett  
 19 depositions.  
 20 MR. BREWER: That's right.  
 21 THE WITNESS: This here?  
 22 BY MR. BREWER:  
 23 Q. You can take a look at ten and nine,  
 24 and then take a look at number three to your

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Lorena J. Hartnett, R.P.R.

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<p>1 exhibit, and I would like you to tell me if you  2 think this is an accurate representation of the  3 difference?  4 A. Wait a minute, now. I don't  5 understand. You said look at this, this.  6 Q. All right, this, take a look at number  7 three. This is this paper.  8 A. Right.  9 Q. Okay. And, if you need to, you can  10 take a look at number nine --  11 A. And ten.  12 Q. -- and ten to Mr. Garrison's  13 deposition. What I would like you to do is tell  14 me if you think this accurately represents the  15 differences that exist between the benefits that  16 you got when you were salaried versus the  17 benefits that you get now.  18 MR. MARTIN: If he knows.  19 BY MR. BREWER:  20 Q. If you know, yes, if you can compare  21 it or not.  22 A. I don't know.  23 Q. Okay, let me maybe try to ask you a  24 couple of straightforward questions. We have</p>	<p>1 are correct that we have been discussing? And  2 when I say have been discussing, I mean have been  3 discussing in the renegotiations?  4 A. Can you repeat that?  5 Q. Sure. Under the STD column, which is  6 short-term disability, there are various levels  7 of benefits listed for the people who are members  8 of Teamsters 355. Do you see those?  9 A. Yes.  10 Q. And my question to you is we have been  11 discussing, we, meaning the company and the  12 union, have been discussing these benefits  13 recently.  14 Does this benefit that's listed here  15 look to be the benefit that the employees of 355,  16 the employees who are represented by 355 have?  17 A. No.  18 Q. This doesn't look like it?  19 A. No.  20 Q. Okay. All right. Now, let me show  21 you -- Well, before I move to that, let me just  22 go back to that piece of paper. Maybe an easy  23 way to do it, look at the very first thing,  24 vacations.</p>
Page 119	Page 121
<p>1 been in renegotiations with Local 355; have we  2 not?  3 A. Yes.  4 Q. Thank you. And we have been talking  5 about benefits?  6 A. Yes.  7 Q. If you look at, just take the LTD, the  8 second column down on the left, it says LTD, do  9 you see that?  10 A. Yes.  11 Q. That's long-term disability. The  12 benefit level with 355 here shows that there is  13 no long-term disability.  14 A. Right.  15 Q. But it shows that there is long-term  16 disability for salaried people; right?  17 A. Yes.  18 Q. When you were a crew leader, you had  19 long-term disability, didn't you?  20 A. For awhile. Some parts of it, I did.  21 Some parts of it, I didn't.  22 Q. All right. STD, which is short-term  23 disability, the amounts that are shown for the  24 355 people, do those look like the amounts that</p>	<p>1 A. Uh-huh. Wait a minute.  2 Q. No, that's right, the paper that you  3 have there.  4 A. I know.  5 Q. Okay.  6 A. Okay, go ahead.  7 Q. Do the vacations look to be what you  8 recall salaried people getting and hourly people  9 getting, the 355 hourly people?  10 Let me try to maybe rephrase the  11 question this way: After you have had 15 years  12 of service with the company, did you receive four  13 weeks of vacation?  14 A. Yes.  15 Q. Okay. And it looks like you have to  16 be over 20 years to get four weeks if you are  17 hourly?  18 A. Hourly, yes.  19 Q. Okay, good. That's fine. This is  20 Exhibit Number 12 to Mr. Garrison's deposition.  21 Let me show you this.  22 MR. MARTIN: Put these other things  23 away so we don't get confused here.  24 BY MR. BREWER:</p>

31 (Pages 118 to 121)

Lorena J. Hartnett, R.P.R.

(302) 426-1007 or 736-3661

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1 Q. Have you seen this before? This goes  
 2 back to the time when you were still being paid  
 3 by the thousand?  
 4 A. I don't remember.  
 5 Q. Okay. One of the things under  
 6 catchers, it says that the rate is 260 per  
 7 thousand, and the date at the top, by the way, is  
 8 March 27, 2001?  
 9 A. Uh-huh.  
 10 Q. Does that sound about right to you?  
 11 MR. MARTIN: I'm sorry, does what  
 12 sound right?  
 13 BY MR. BREWER:  
 14 Q. The fact the catchers were receiving  
 15 260 per thousand?  
 16 A. I don't remember.  
 17 Q. Okay. Does it sound right that the  
 18 crew leaders, that you were making about 510 per  
 19 thousand?  
 20 A. Yes.  
 21 Q. Okay. Down at the bottom it says the  
 22 crew leaders are eligible for monthly and annual  
 23 bonuses. Were you eligible for monthly and  
 24 annual bonuses when you were a crew leader?

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1 A. Yes.  
 2 Q. Were the catchers eligible for  
 3 bonuses?  
 4 A. No.  
 5 Q. Let's take a look at Exhibit 13 to  
 6 Mr. Garrison's deposition. If you look at the  
 7 top in the year 2001, it's Nathaniel Briddell.  
 8 Is that you, sir?  
 9 A. Yes.  
 10 Q. And this shows that in December of  
 11 2000 you received a \$99.10 bonus; correct? Do  
 12 you see where I am?  
 13 A. Yes.  
 14 Q. And you received a performance bonus  
 15 in January of '01 for \$315.70?  
 16 A. Say that again, now.  
 17 Q. In January of '01 that you received a  
 18 performance bonus of \$315.70?  
 19 A. That's correct.  
 20 Q. And you received another performance  
 21 bonus in February?  
 22 A. Yes.  
 23 MR. MARTIN: For the clarity of the  
 24 record, are you asking him whether this

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1 document says this or whether he recalls  
 2 having received this?  
 3 BY MR. BREWER:  
 4 Q. Well, we know the document says it.  
 5 A. Do I recall?  
 6 Q. Getting a bonus?  
 7 A. I recall getting a bonus, but I don't  
 8 recall the amount.  
 9 Q. All right, well, there is an amount  
 10 listed here. Does that amount seem to you to be  
 11 correct?  
 12 A. I don't remember, sir.  
 13 Q. You have no idea?  
 14 A. No.  
 15 Q. Any reason to think that this is not  
 16 correct?  
 17 A. I just don't remember just what the  
 18 actual figure was.  
 19 Q. I understand that. My question is is  
 20 there any reason that you would think that the  
 21 figures that are listed here are not correct?  
 22 A. I can't answer that question. I  
 23 don't --  
 24 Q. What do you mean you can't answer the

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1 question?  
 2 A. I don't know. Figures do get juggled  
 3 around, and I don't know.  
 4 Q. Figures do get juggled around?  
 5 A. Yes, they do, sir.  
 6 Q. So these figures could get juggled  
 7 around? Is that what you are suggesting?  
 8 A. Yes, they could, sir.  
 9 Q. Who would juggle them around?  
 10 A. I don't know everybody in the company.  
 11 Q. Everybody in the company?  
 12 A. I don't know everybody that works with  
 13 figures in the company. I just don't remember  
 14 the figures. I remember getting bonuses.  
 15 Q. Sir, I understand that, and I  
 16 understand that going back to January of 2001 --  
 17 A. Uh-huh.  
 18 Q. -- is awhile ago.  
 19 A. Yes.  
 20 Q. Okay, and what I am asking you is not  
 21 if you remember receiving that. You say you  
 22 don't. That's fine.  
 23 A. Right.  
 24 Q. But I am saying that this document



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1 says that's what you got.  
 2 A. Yes.  
 3 Q. And my question to you is is there any  
 4 reason that you can give me that we should not  
 5 believe that you got \$315.70 as a performance  
 6 bonus?  
 7 A. I just don't remember.  
 8 Q. All right, that's not responsive. I  
 9 am going to do it again.  
 10 It shows in the year 2001 you received  
 11 a total of \$1,423 bonus. Does that seem right to  
 12 you?  
 13 A. That's 2000 what?  
 14 Q. In the year 2001 --  
 15 A. Uh-huh.  
 16 Q. -- at the end of the year, it's the  
 17 last column on the right, it says year to date  
 18 earned, \$1,423.60.  
 19 A. I remember getting a bonus, yes.  
 20 Q. Okay. And if we go to the year 2002,  
 21 and rather than go month by month, we go to the  
 22 year end, it shows \$345.92. Does that seem right  
 23 to you?  
 24 A. I do remember getting a bonus, sir.

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1 Q. Okay. In 2003 it shows \$313.54.  
 2 A. I do remember getting a bonus.  
 3 Q. Okay. Of course, in 2004 you are not  
 4 listed because you weren't a crew leader then?  
 5 A. Right.  
 6 Q. All right, so you didn't get any  
 7 bonuses in 2004 because you were back as an  
 8 hourly employee?  
 9 A. Right.  
 10 Q. And hourly employees don't get these  
 11 bonuses. Now, in addition to getting a monthly  
 12 bonus, you also got a bonus at the end of the  
 13 year; right?  
 14 A. Yes.  
 15 Q. If you go down to the very last  
 16 column, okay, it shows the bonuses that you got  
 17 per month in 2001, which is that same number you  
 18 looked at at the top. That's the \$1,423.60.  
 19 A. Uh-huh.  
 20 Q. It shows, in addition to that, you got  
 21 another \$4,425.97 as an annual bonus?  
 22 A. I remember.  
 23 Q. You remember that. You remember that,  
 24 okay. In 2002, of course you got the monthly

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1 bonuses that we just discussed, but you didn't  
 2 get an annual bonus?  
 3 A. No.  
 4 Q. And you got monthly bonuses in 2003  
 5 but no annual bonus, because you left being a  
 6 crew leader in, what, I think you said April of  
 7 2003?  
 8 A. Yes.  
 9 Q. Okay, so you wouldn't have been  
 10 eligible for those.  
 11 Okay, let me show you what has been  
 12 identified as Exhibit 14 to Mr. Garrison's  
 13 deposition. Have you seen this before, sir?  
 14 A. I don't remember seeing this.  
 15 Q. You don't remember seeing this?  
 16 A. No.  
 17 Q. This talks about a management meeting  
 18 that was going to be held on a Saturday. Do you  
 19 remember going to a meeting in February of 2003?  
 20 A. No.  
 21 Q. You didn't go?  
 22 A. I don't remember going to that  
 23 meeting.  
 24 Q. You don't remember going?

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1 A. No.  
 2 Q. But this was addressed to crew  
 3 leaders?  
 4 A. Yes.  
 5 Q. And you were a crew leader in January  
 6 of 2003?  
 7 A. Yes.  
 8 Q. Just to be sure, you don't have any  
 9 recollection of getting this or seeing this?  
 10 A. No.  
 11 Q. Let me show you what's been marked as  
 12 Exhibit 15 to Mr. Garrison's deposition. This is  
 13 the Christmas invitation list for supervisors in  
 14 2003.  
 15 A. Yes.  
 16 Q. Under Doug Lynch your name is not  
 17 mentioned, is it?  
 18 A. No.  
 19 Q. Do you know why it wasn't here?  
 20 A. This was from Christmas dinner 2003?  
 21 I was -- I don't know why I didn't receive this.  
 22 Q. You were hourly.  
 23 A. Yes, that's correct.  
 24 Q. And this is for supervisors. This

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33 (Pages 126 to 129)

Lorena J. Hartnett, R.P.R.

(302) 426-1007 or 736-3661

7431ced2-5727-4bec-b77d-b03a444777d2

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1 Christmas dinner is for supervisors, isn't it?  
2 A. Yes.  
3 Q. The hourly people don't have a  
4 Christmas dinner, do they? The hourly people  
5 don't have Christmas dinner, do they?  
6 A. Not the hourly.  
7 Q. Okay, if you look at the last page of  
8 this exhibit, Christmas 2001, under Mr. Lynch  
9 your name is listed there, isn't it?  
10 A. Yes, it is.  
11 Q. And that's because you were a crew  
12 leader at the time?  
13 A. That's correct.  
14 Q. Did you go to the dinner?  
15 A. Yes.  
16 Q. Okay. Were there any people at the  
17 dinner who were not supervisors, as far as you  
18 know?  
19 A. I don't remember.  
20 Q. You don't remember. Before we move  
21 into another area, can you -- I would just like  
22 to know this, what you would identify as your  
23 strengths as a crew leader? What do you think  
24 you did the best when you were a crew leader?

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1 A. Communicate with the people there.  
2 Communicate with the people, the upper  
3 management, the catchers, the drivers. I had a  
4 good relationship with them.  
5 Q. Okay, and what would you say was your  
6 weakest point?  
7 A. My weakest point?  
8 Q. Uh-huh.  
9 A. I don't think I had any weak points in  
10 that field.  
11 Q. Okay. Okay. Now, recently do you  
12 remember coming to Mr. Lynch and asking him that  
13 he should talk to the crew leaders about loose  
14 items that were on the forklift trailer?  
15 A. Yes, trailer debris, yes.  
16 Q. And do you know a fellow by the name  
17 of Mr. Al Z.?  
18 A. Yes.  
19 Q. What's his job at the company?  
20 A. As far as working, you have to go to  
21 him about work-related things. I very seldom  
22 have to go to Mr. Al Z.  
23 Q. Do you remember him being part of this  
24 conversation that you had with Mr. Lynch?

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1 A. Yes, I do.  
2 Q. Okay, and did Mr. Al Z. tell you that  
3 you should tell the crew leaders about leaving  
4 these items?  
5 A. No, he said I should move it.  
6 Q. He said you should do it?  
7 A. Yes.  
8 Q. That you should tell the crew leaders?  
9 A. That I should do it.  
10 Q. You should do it?  
11 A. Yes, that I should take it off.  
12 Q. Oh, okay. Do you ever remember  
13 telling Mr. Z. that you couldn't do it, that you  
14 were a driver?  
15 A. No, I don't remember saying that.  
16 Q. Do you remember Mr. Z. saying, "Well,  
17 what did you do when you were a crew leader," and  
18 you responded, "My job was to manage and direct  
19 the crew." Do you remember saying that to Mr. Al  
20 Z.?  
21 A. I said I was supposed to do as my  
22 manager told me to do. That is managing,  
23 directing a crew.  
24 Q. But my question is this, sir: Did you

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1 say to Mr. Al Z. in the presence of Mr. Lynch  
2 that when you were a crew leader, quote, "My job  
3 was to manage and direct the crew."  
4 A. To manage the crew.  
5 Q. And direct the crew?  
6 A. To manage the crew.  
7 Q. And to direct the crew?  
8 A. Manage the crew.  
9 Q. So you didn't say "and direct," then?  
10 A. No, I don't remember saying that.  
11 Q. But you did say to him that your job  
12 was to manage the crew --  
13 A. Yes.  
14 Q. -- to Mr. Z. and to Mr. Lynch.  
15 Okay, let's take a look at -- I will  
16 give you Mr. Garrison's Exhibit Number 16 to  
17 Mr. Garrison's deposition here, and this is also  
18 the complaint that's been filed in this case, and  
19 you may have seen this one. I assume you  
20 probably have. And I would like you to go to  
21 Paragraph 23. Are you there, sir?  
22 A. Yes, right here.  
23 Q. Paragraph 23, it says, "At all  
24 relevant times herein defendant followed and

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34 (Pages 130 to 133)

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<p>1 continues to follow a corporate policy and/or  2 practice that requires/required plaintiffs to  3 submit a daily time sheet broken down for each  4 day of the week."  5 Were you required to keep a time sheet  6 of your time broken down for each day of the  7 week?  8 A. At a point in time, yes, that I had to  9 turn in a time sheet ever day of each catcher.  10 Q. Each catcher?  11 A. Yes.  12 Q. But it was for the catchers you were  13 keeping a time for?  14 A. Yes.  15 Q. You were not keeping a time for  16 yourself?  17 A. No.  18 Q. Okay, and you have never kept time for  19 yourself as a crew leader?  20 A. No.  21 Q. Go to the next paragraph, which is  22 Paragraph 26. You can take a moment and read  23 that, if you want.  24 Okay, this basically says that the</p>	<p>1 Paragraph 27. You can take a moment, sir, and  2 read that. I just have a couple questions about  3 that for you.  4 Okay, what this paragraph basically  5 says is that the defendants have a policy,  6 defendants being the company, have a policy of  7 again the partial-day deductions, which you said  8 did not happen when you were salaried, whereby  9 your pay was reduced because of violations in the  10 quantity of the work performed or directly  11 received a reduction in the amount of  12 compensation in the event they chose to charge  13 time off from normal hours.  14 Was your compensation reduced because  15 of violations of the quantity of work performed  16 at all?  17 A. No.  18 Q. When you were salaried, there  19 basically weren't any deductions taken from your  20 work or anything else, were there?  21 A. No.  22 Q. Take a look, sir, at that same  23 document and turn to Paragraph 32, please. Let  24 me know when you are finished.</p>
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<p>1 defendant, which is the company, follows a  2 practice of partial-day deductions, and it says  3 in that, "Any partial time taken off in working  4 hours by the plaintiffs," which is you, "was  5 deducted from their pay."  6 Were any deductions made from your pay  7 when you took less than one full day off?  8 A. That depends. Now, if I took off when  9 I got paid by the thousand --  10 Q. Uh-huh.  11 A. -- and I got somebody in my place, the  12 company did not pay. I paid it out of my pocket.  13 Q. Correct. I am talking about -- Let's  14 talk about the times from June of '02 when you  15 became salary. Okay?  16 A. In June of '02?  17 Q. In June of '02 when you first became  18 salaried until April of '03 when you stopped  19 being a crew leader?  20 A. No.  21 Q. There were no partial-day deductions  22 taken from your pay?  23 A. No.  24 Q. Okay. Go to the next paragraph,</p>	<p>1 A. Okay.  2 Q. Go ahead and read it and just let me  3 know when you are finished.  4 A. Finished.  5 Q. Okay. When you were a crew leader,  6 did you receive payment from the company for use  7 of your vehicle?  8 A. No.  9 Q. No?  10 A. No, it was not mine. That come right  11 off the top of my paycheck.  12 Q. Let's talk about from the time you  13 were salaried?  14 A. Oh, salaried?  15 Q. Yes.  16 A. Did I receive money from the company?  17 Q. Did you receive money every week, a  18 check every week from the company for the use of  19 your vehicle?  20 A. Not from the company. It was my  21 money.  22 Q. Okay, that's fine if that's what your  23 testimony is, but I just want you to think about  24 it for a second.</p>

35 (Pages 134 to 137)

Lorena J. Hartnett, R.P.R.

(302) 426-1007 or 736-3661

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1 A. Every week we got \$215, a \$215 check.  
 2 Q. Every week?  
 3 A. An advance check from our salary.  
 4 Q. From the company. Oh, you think that  
 5 was part of your salary?  
 6 A. Let me remember this. It's been so  
 7 long.  
 8 Q. The noise doesn't help either.  
 9 (Referring to fire whistle)  
 10 A. I don't remember. Let's see, we were  
 11 getting a \$215 check. That included the \$235.  
 12 Q. Uh-huh, that's correct.  
 13 A. No, the company wasn't giving us no  
 14 \$235 a week.  
 15 Q. What was that? You remember getting  
 16 checks for \$235 a week?  
 17 A. Yes.  
 18 Q. What were they for, as far as you  
 19 know?  
 20 A. They were advance checks from our pay.  
 21 Q. Advance checks from your payroll, from  
 22 your pay?  
 23 A. Yes, I think. I don't remember.  
 24 Q. Okay, and you got those every week?

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1 A. Yes.  
 2 Q. Okay, now, we had asked you to produce  
 3 certain documents, one of which was your tax  
 4 returns, and those documents have not been  
 5 produced. And I would assume the reason is  
 6 for the same reason we talked about before, the  
 7 divorce proceeding that you were involved with?  
 8 A. Uh-huh.  
 9 Q. I will ask you, because this now is  
 10 important, to produce your income tax returns for  
 11 the years 2001, 2002 and 2003. Okay?  
 12 A. If I can.  
 13 Q. Okay. You may not know the answer to  
 14 this, but let me ask it anyway. That money, the  
 15 \$235 you were getting every week, do you remember  
 16 when you filled out your tax forms how that money  
 17 was classified? Was it considered regular  
 18 earnings, for example?  
 19 A. I don't remember.  
 20 Q. You don't remember. All right. But I  
 21 am going to ask you to search and produce your  
 22 tax returns. That would be important for this  
 23 purpose here.  
 24 Let's look to the next item, which is

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1 Paragraph 34. This says, "When the defendant,"  
 2 which is the company, "learned of plaintiff's  
 3 intention to seek counsel, defendant immediately  
 4 retaliated against plaintiffs, threatened them  
 5 with termination of employment if they continued  
 6 to pursue these issues."  
 7 Did anybody threaten you with  
 8 termination?  
 9 A. No.  
 10 Q. Did anybody retaliate against you,  
 11 sir?  
 12 A. No.  
 13 Q. Okay. And I think I asked you, and  
 14 you said no one threatened you with termination  
 15 from employment?  
 16 A. No.  
 17 Q. Let's see. Go to the next paragraph,  
 18 which I would like to read, Paragraph 36. And  
 19 this says, "Many of the plaintiffs have been  
 20 cornered by various management personnel and  
 21 questioned individually regarding their  
 22 discussions with counsel and the nature of their  
 23 action."  
 24 Were you cornered by any member of

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1 management about this lawsuit?  
 2 A. Cornered me and questioned me?  
 3 Q. Cornered? Well, this is what it says.  
 4 It says, "Many of the plaintiffs have been  
 5 cornered."  
 6 A. No, I don't remember being cornered.  
 7 Q. By anybody from management?  
 8 A. No.  
 9 Q. It also says they questioned many of  
 10 the plaintiffs, and it may not be you, "Many of  
 11 the plaintiffs have been questioned individually  
 12 regarding their discussions with counsel."  
 13 Have you been questioned by any member  
 14 of management regarding your discussions with  
 15 Mr. Martin?  
 16 A. Yes.  
 17 Q. Who?  
 18 A. David Nuse said, "I heard your name  
 19 was on the lawsuit."  
 20 Q. Uh-huh. Okay.  
 21 A. "And you won't receive anything."  
 22 That's all I got on that.  
 23 Q. David Nuse said, "I heard your name  
 24 was on the lawsuit."

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36 (Pages 138 to 141)



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1 owned and operated by the defendant's upper  
 2 management personnel circling the parking lot of  
 3 the diner at which they were assembled for a  
 4 meeting.

5 Can you tell me anything about that?

6 A. Yes, I do remember seeing that company  
 7 vehicle.

8 Q. Which vehicle did you see?

9 A. I seen a tan Crown Victoria.

10 Q. And whose car was that?

11 A. I don't remember. I can't recall. I  
 12 did not see that person.

13 Q. You did not see the person?

14 A. No.

15 Q. But you are sure it was a company car?

16 A. I know it was.

17 Q. And what occurred? The car, it said,  
 18 circled?

19 A. Just circled around the parking lot  
 20 real slow and drove on off.

21 Q. So the car came into the parking lot?

22 A. Yes, it did.

23 Q. Circled around slowly and drove off?

24 A. Yes.

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1 Q. That's what this refers to? Nobody  
 2 got out of the car?

3 A. No.

4 Q. Nobody came into the restaurant that  
 5 you were in?

6 A. No.

7 Q. This complaint just says on a  
 8 Saturday. Do you remember what Saturday morning  
 9 this was?

10 A. No, I don't.

11 Q. You had testified at a meeting in 2003  
 12 with Mr. Martin?

13 A. Yes.

14 Q. Would that be the time?

15 A. Yes, it could very well be.

16 Q. And basically that's what happened?

17 A. Yes.

18 Q. A car drove in and drove out?

19 A. Yes.

20 Q. Now, it is claimed in the answers to  
 21 the interrogatories that you gave to us --

22 A. What, which paragraph is this?

23 Q. Oh, no, no, I am not -- I am done with  
 24 this. I'm sorry. I think I am finished with

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1 this. Let me give you this. This would be  
 2 number four to your deposition.

3 (The reporter marked Briddell  
 4 Exhibit 4.)

5 A. Okay.

6 Q. These are, Mr. Briddell, these are  
 7 answers to what are called interrogatories that  
 8 we sent to you and you answered back. These are  
 9 questions that we asked you.

10 A. Uh-huh.

11 Q. And you and your attorneys answered  
 12 them.

13 A. Uh-huh.

14 Q. What I would like you to do is to go  
 15 to the second question, or interrogatory, okay,  
 16 and that appears on page four. Okay?

17 A. Uh-huh.

18 Q. And the question here is to give us  
 19 the factual basis for the claim that you worked  
 20 overtime without compensation, okay, the hours on  
 21 each of the days you contend you worked the  
 22 overtime, and documents, if there were any, that  
 23 would reflect this time.

24 A. Uh-huh.

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1 Q. All right. The answer that's given is  
 2 the one that's here, and that's fine.

3 My question to you is can you tell me  
 4 how you arrived at that you worked an average of  
 5 25 hours per week?

6 A. Yes.

7 Q. Would you do so, please?

8 A. Yes, sir.

9 Q. Thank you.

10 A. I started picking up help --

11 Q. Uh-huh.

12 A. -- three hours prior to farm time,  
 13 whatever the farm time was, as it rotated.

14 Q. Uh-huh.

15 A. My first man lived 15 minutes away  
 16 from me in Berlin. I lived on Honeysuckle Road,  
 17 and he lived on Peach Lane. I had to go wait for  
 18 him to get ready to come out. Then I would  
 19 proceed --

20 Q. Okay, I'm sorry, why would you have to  
 21 wait for him?

22 A. He wasn't up and ready to go to work.

23 Q. Well, he is supposed to be ready to go  
 24 to work.

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38 (Pages 146 to 149)

Lorena J. Hartnett, R.P.R.

(302) 426-1007 or 736-3661

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IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF DELAWARE

WILLIE DAVIS, JR. )  
NATHANIEL BRIDDELL, )  
GEORGE W. FEDDIMAN, )  
JOSEPH GARRISON, )  
LARRY E. GIBBS, )  
ROY H. WALTERS, )  
ALL SIMILARLY-SITUATED CURRENT )  
AND FORMER EMPLOYEES OF )  
MOUNTAIRE FARMS, INC., )  
MOUNTAIRE FARMS OF DELMARVA, )  
INC., and MOUNTAIRE FARMS OF )  
DELAWARE, INC., )

Plaintiffs, )

-vs- )

C.A. No. 04-0414

MOUNTAIRE FARMS, INC., )  
MOUNTAIRE FARMS OF )  
DELMARVA, INC., and )  
MOUNTAIRE FARMS OF DELAWARE, )  
INC., all Delaware corporations )  
Defendants. )

Deposition of WILLIE DAVIS, taken before  
Pamela C. Washington, Registered Professional Reporter  
and Notary Public, at the law offices of Young,  
Conaway, Stargatt & Taylor, 110 West Pine Street,  
Georgetown, Delaware, on March 15, 2005, beginning at  
10:00 a.m.

APPEARANCES:

On behalf of the Plaintiffs:  
Margolis Edelstein  
BY: JEFFREY K. MARTIN, ESQ.  
and KERI WILLIAMS, ESQ.  
1509 Gilpin Avenue  
Wilmington, Delaware 19806

On behalf of the Defendant:  
Shawe & Rosenthal  
BY: ARTHUR M. BREWER, ESQ.  
and LAURA PIERSON SCHEINBERG, ESQ.  
20 South Charles Street  
Baltimore, Maryland 21201

A-0214

I-N-D-E-X

Witness:

WILLIE DAVIS

Examination by Mr. Brewer ..... 3

CERTIFICATE OF COURT REPORTER ..... 52

**A-0215**

1 WHEREUPON:

2 WILLIE DAVIS, JR.,  
3 having first been duly sworn by the court reporter,  
4 thereupon testified upon his oath as follows:

5 MR. MARTIN: Before we begin,  
6 Mr. Brewer, let me advise you that Mr. Davis has some  
7 type of a hearing impairment that he disclosed to me  
8 this morning. He most times does not have trouble  
9 hearing, but he needs to see your lips as you are  
10 talking.

11 MR. BREWER: Okay.

12 MR. MARTIN: So if you can try not to  
13 obscure your lips, not that you do. And I have asked  
14 him to certainly let us know if he has any trouble  
15 hearing what the question is.

16 MR. BREWER: Okay.

17 BY MR. BREWER:

18 Q Should I try to keep my voice higher  
19 than normal, would that help you?

20 A Well, normal would be okay.

21 Q Normal is okay?

22 A Yes.

23 Q Oh, all right. As long as I look to  
24 you then?

25 A Yes.

A-0216



Davis - Brewer

1 Q Okay.

2 MR. BREWER: Do we have the same  
3 stipulation that we had in the other depositions?

4 MR. MARTIN: Yes, sir.

5 MR. BREWER: Okay.

6 BY MR. BREWER:

7 Q Mr. Davis, I know you and I have met  
8 before, but just for purposes of a formal  
9 introduction, my name is Art Brewer, I'm an attorney  
10 and I'm representing Mountaire in a case called Davis  
11 and there are several other plaintiffs versus  
12 Mountaire, okay?

13 A Yes.

14 Q Have you ever been deposed before, sir?

15 A No, sir.

16 Q Do you understand that you are under  
17 oath today and have an obligation to tell the truth?

18 A Yes, sir.

19 Q Do you understand that while this is  
20 informal, it has the same significance as if you were  
21 in a courtroom, testifying?

22 A Yes, sir.

23 Q Okay. What's going to happen here is  
24 I'm going to ask you a series of questions. The court  
25 reporter who you see here to my right is going to take

A-0217

Davis - Brewer

1 down my questions and your answers. At trial, I will  
2 have an opportunity to bring to the attention of the  
3 judge or the jury any changes in your testimony here  
4 today and what you might later testify in court, do  
5 you understand that?

6 A Yes, sir.

7 Q All right. If you do not understand a  
8 question I ask or, as a result of what Mr. Martin  
9 said, you can't hear me clearly, please ask me to  
10 repeat the question or to rephrase the question, I'll  
11 be happy to do that.

12 A Yes, sir.

13 Q If you answer a question, however, I'm  
14 going to assume that you understood the question, do  
15 you understand that, sir?

16 A Yes, sir.

17 Q All right. Sir, let me ask you, do you  
18 have any physical or mental problems that would  
19 interfere with your ability to answer my questions  
20 here today?

21 A No, sir.

22 Q Are you on any medication today?

23 A None that would impair me.

24 Q None that would affect your ability to  
25 understand my questions and to answer them?

A-0218

Davis - Brewer

1 A No, sir.

2 Q All right. If at any time during the  
3 proceedings here you need a break, just please let me  
4 know. We have normally been taking a break  
5 approximately after two hours, I believe -- after one  
6 hour, okay; I thought it was two, seems like two, so  
7 we'll do that. But in the meantime, if you need  
8 another break earlier than that, just please let me  
9 know, okay?

10 A Yes, sir.

11 Q All right. Can you tell me, please,  
12 how you came to contact Mr. Martin?

13 A I contacted him by lawyer referral, by  
14 the lawyer referral.

15 Q Is that a lawyer referral service?

16 A Yes.

17 Q Okay, who did you talk to there?

18 A I don't recall the name of the person I  
19 talked to but I know I told them the problems that I  
20 thought I had, and they in turn contacted me back and  
21 gave me Mr. Martin's phone number.

22 Q All right. And did you subsequently  
23 call Mr. Martin?

24 A Yes, sir, I did.

25 Q Can you tell me when, please?

A-0219

Davis - Brewer

1 A I have one daughter born in 1968, one  
2 was born in '67, one was born in '74, and one was born  
3 in '70.

4 Q Okay. Do they live in the area here?

5 A Yes, sir.

6 Q Okay. How about your son?

7 A My son live in -- right now at the  
8 present, he's residing with me and his sister, one of  
9 his sisters, over Delmar.

10 Q Okay, so you have one of the daughters  
11 and your son is living with you now?

12 A No, sir; none of my daughters are  
13 living with me.

14 Q I'm sorry, I misunderstood you then.  
15 So it's your son that's living with you?

16 A I said part-time with me and then  
17 part-time with his sister over to Delmar.

18 Q Oh, I see, okay. And how old is your  
19 son?

20 A My son was born in '69, December 5th.

21 Q Okay. Is your son employed?

22 A Yes, sir, he is.

23 Q Who is he employed by?

24 A Mountaire of Millsboro.

25 Q And what does he do?

A-0220



Davis - Brewer

1 A Feed truck driver, drives a feed truck.

2 Q Feed truck? Okay. Do you know how  
3 long he has been at Millsboro?

4 A Not too long. I think about a month or  
5 so, a couple months, something like that.

6 Q Oh, recently employed there?

7 A Yes.

8 Q Do you regularly attend church, sir?

9 A No, sir, I do not.

10 Q Okay. What is your highest level of  
11 education?

12 A About a year-and-a-half almost, about a  
13 year, little over a year-and-a-half of college.

14 Q Okay. And where is that, what college  
15 was that?

16 A Delaware Tech.

17 Q Del-Tech? Okay. Do you have any  
18 certifications or licenses to drive, like a CDL or a  
19 forklift or anything along those lines?

20 A Not now, no. I did have but not now.

21 Q When did you --

22 A I have a driver's license.

23 Q Okay. Did you ever have a CDL?

24 A Yes, I did.

25 Q Okay. And when did you have your CDL?

A-0221

Davis - Brewer

1 A Just I first acquired my CDLs in 1967  
2 and up until 1990.

3 Q Okay. I'm not trying to trick you, but  
4 CDLs didn't come into place until probably the very  
5 late '80s.

6 A Well, chauffer's license.

7 Q You had a Class A chauffer's license?

8 A Chauffer's license, and then they go  
9 right over to CDL.

10 Q So you had a Class A chauffer's license  
11 and you got that, when did you say again, please?

12 A My chauffer's license?

13 Q Yes.

14 A 1967.

15 Q 1967, okay. And then after the  
16 chauffer's license you needed a CDL, you got that?

17 A No, I did not. I did not change over  
18 to the CDL.

19 Q Oh, you did not change over?

20 A No, I did not.

21 Q So you do not have a CDL?

22 A No.

23 Q Okay, how about a forklift license?

24 A I was certified through Mountaire.

25 Q Okay. And you currently under any

A-0222

Davis - Brewer

1 treatment with a physician or a mental health care  
2 provider?

3 A Not the mental health, no, sir.

4 Q Physical?

5 A Physical, yes.

6 Q Okay, and what are you being treated  
7 for, sir, if you don't mind my asking?

8 A Degenerative heart condition --  
9 degenerative heart condition.

10 Q Okay. Let's talk about your employment  
11 with Mountaire; when did you first become employed  
12 with Mountaire?

13 A About April of -- it was either 2000 or  
14 2001.

15 Q Okay. Prior to being employed with  
16 Mountaire, for whom were you working?

17 A I was independent weigh master for  
18 Tyson Food.

19 Q So you were a weigh master for Tyson  
20 Foods?

21 A Yes.

22 Q And how long did you have that  
23 position?

24 A From 1997 until -- from the time that I  
25 went to Mountaire.

A-0223

Davis - Brewer

1 Q Okay. And prior to that, by whom were  
2 you employed?

3 A I was working part-time for the --  
4 relief weigh master for Perdue at Showell Farms,  
5 Showell, Maryland.

6 Q You were a relief weigh master?

7 A Relief crew leader, yes.

8 Q Relief crew leader, okay. What did you  
9 do as a relief crew leader?

10 A When some of the crew leaders would  
11 take off, I would take the crews out for them.

12 Q Okay, so somebody wanted a day off,  
13 you'd fill in for that day?

14 A Yes.

15 Q Somebody took a week's vacation, you'd  
16 fill in for that week?

17 A Something like that.

18 Q And if no one was doing anything, you  
19 just didn't work?

20 A No.

21 Q Okay. And how long did you do that for  
22 Perdue?

23 A From the time that Perdue purchased  
24 Showell.

25 Q Okay.

**A-0224**



Davis - Brewer

1 A And then up until I went to Tyson  
2 Foods.

3 Q Okay. So you went from Perdue when  
4 they purchased Showell to Tyson to Mountaire?

5 A Yes.

6 Q Prior to Perdue's acquisition of  
7 Showell what did you do?

8 A I was a truck driver, live haul driver  
9 for Showell, Cooking Good.

10 Q Okay, and how long were you employed by  
11 Showell?

12 A Approximately three years.

13 Q And you were a live haul driver for  
14 Showell?

15 A Yes.

16 Q Okay. And prior to Showell?

17 A I drove live haul for Perdue in  
18 Salisbury.

19 Q So your first experience then as a  
20 weigh master, if you will, would have been at Perdue  
21 when you were a relief weigh master?

22 A No, sir.

23 Q Oh, all right.

24 A My first weigh master experience began  
25 back in 1968.

**A-0225**

Davis - Brewer

1 Q All right, with whom?

2 A German Trucking and -- what's the name  
3 of the place -- Carolina Poultry, I was relief weigh  
4 master for different crews over there to Carolina  
5 Poultry in Federalsburg and Denton, Maryland.

6 Q And when you weren't filling in as a  
7 relief crew leader, what were you doing?

8 A I was live haul truck driver.

9 Q Okay. Was that also true when you were  
10 with Showell, were you also a relief crew leader  
11 there?

12 A I was relief crew leader for Perdue  
13 when Perdue purchased Showell. But when Showell  
14 was -- I was at Showell Cooking Good, I was a live  
15 haul truck driver.

16 Q All right. And you didn't fill in  
17 for --

18 A No, sir.

19 Q Okay, I think that answers my  
20 questions. When you first became hired by Mountaire,  
21 what position were you hired into?

22 A As a crew leader.

23 Q You were hired as a crew leader, okay.  
24 And did there ever come a time when you worked for  
25 Mountaire that you requested to go on a part-time

A-0226

Davis - Brewer

1 basis?

2 A The latter part of when they gave me --  
3 when they laid my crew off, they offered me the  
4 position of a part-time position, you know, as a crew  
5 leader, and I accepted that.

6 Q Okay. So my question is did you  
7 request to become part-time or not?

8 A Well, when they told me they was laying  
9 my crew off, I requested the part-time, you know, to  
10 fill-in crew.

11 Q Okay. So it was because they were  
12 laying your crew off that you made that request?

13 A Yes.

14 Q Okay. And when you were operating as a  
15 part-time crew, what time frame are we talking about?

16 A Well, when they first laid me off, I  
17 went in as a crew leader for about six -- five or six  
18 months straight with no time off or anything like  
19 that.

20 Q Okay, I'm confused. You testified that  
21 you were laid off.

22 A Yes.

23 Q I thought you told me you --

24 A As a full-time weigh master -- as a  
25 full-time crew leader, I was laid off. Then they

A-0227

Davis - Brewer

1 brought me in as a relief crew leader.

2 Q Okay.

3 A And I had to fill in, you know, the  
4 other crew leaders spot.

5 Q That's what I'm interested in, when did  
6 that occur? When did you go from being a full-time  
7 crew leader to a relief crew leader?

8 A From the time that they laid me off.

9 Q When was that?

10 A I cannot recall direct the date, the  
11 exact date.

12 Q Can you give me a year, what year that  
13 might have happened?

14 A It was one year after I was there for  
15 the full-time position.

16 Q So a year after you became employed,  
17 that's when you became a part-time crew leader?

18 A Yes.

19 Q Okay, one year after employment. And  
20 as a part-time crew leader, what was your schedule?

21 A Pretty much the same as it was when I  
22 was full time. In other words, I didn't get any time  
23 off.

24 Q So you were working the same amount of  
25 hours?

**A-0228**

Davis - Brewer

1           A       Pretty much the same amount of hours.  
2       In other words, I made the same -- almost the same  
3       amount of money when I went -- when they put me on  
4       part-time as I did a full-time, based on my W-2s.

5 Q Did you ever become a relief crew  
6 leader?

7           A       That was what I was supposed to have  
8   been, relief crew leader. But we had one crew that --  
9   one crew leader that was out, I think he was out  
10 something like about six, seven months, something like  
11 that, and I basically carried his crew out the whole  
12 time.

13 O Who was that?

14 A Roy Walters' crew.

15 Q That's when he had his surgery for his  
16 knees?

17 A I think it was.

18 Q During the time that you were a  
19 part-time crew leader or a relief crew leader -- and I  
20 understand we can use those terms interchangeably,  
21 part-time crew leader is the same thing as a relief  
22 crew leader?

23           A       Part-time relief is what they, you  
24   know, had me down as relief crew leader.

25 Q Okay. So when you're talking about

**A-0229**



Davis - Brewer

1 being a part-time crew leader a year after you became  
2 employed, it's the same as relief crew leader?

3 A I don't know how they would classify  
4 that but I know that, you know, they had me down as  
5 relief crew leader. I was supposed to have been  
6 relief for the other crew leaders for when they wanted  
7 to take off.

8 Q Is that what happened approximately a  
9 year after you started with the company?

10 A Yes, sir.

11 Q Okay, that's what I want to know, all  
12 right. Now, during that time that you were a relief  
13 crew leader, did you ever just operate the forklift  
14 for another crew?

15 A I never operated -- just operated the  
16 forklift for another crew. I was working as the crew  
17 leader, you know, taking the catchers to work, picking  
18 them up, taking them home, and basically doing the  
19 same thing as I done when I was a full-time crew  
20 leader.

21 Q Okay. So what you're saying to me then  
22 is during this period of time that were you a relief  
23 crew leader, that you never operated the forklift?

24 A A lot of times, yes, I did; I had to.

25 Q But were you also the crew leader when

A-0230

Davis - Brewer

1 you were operating the forklift?

2 A Yes, sir.

3 Q All right. So there was never a time  
4 then when you worked for another crew leader and all  
5 you did was operate the forklift?

6 A That was occasion that like if a  
7 forklift operator did not show up, they would call me  
8 in occasionally, you know, to operate the forklift a  
9 little bit.

10 Q And that's all you would do, you would  
11 just operate the forklift?

12 A Sometimes, but not -- it didn't happen  
13 but about two or three times.

14 Q Okay. And that's two or three times  
15 over what period of time, sir?

16 A During the remainder of the time that I  
17 was down there.

18 Q Just so I'm getting a time frame, and I  
19 want to be sure of this, you believe you were employed  
20 in April of either 2000 or 2001?

21 A Right; at this time, I cannot recall.

22 Q All right, that's fine, I understand  
23 that. From whatever that time was, one year later is  
24 when you became a relief crew leader?

25 A Yeah, I had got a vacation, I got my

A-0231

Davis - Brewer

1 first vacation and then they -- then they put me in as  
2 relief crew leader, then I got my second vacation the  
3 next year. So I had two vacations while down there.

4 Q Okay. But during this time that you  
5 were a relief crew leader, what I understood you to  
6 tell me is from that period of time until the time you  
7 left, that you only operated the forklift two or three  
8 times?

9 A For another crew other than, you know,  
10 the crew that I was with.

11 Q Right, for another crew, okay. When  
12 you were a crew leader, how many people were on your  
13 crew?

14 A There was seven catchers.

15 Q Okay, did you ever carry eight?

16 A Occasionally, like if an extra man went  
17 along or something like that. But you only worked  
18 seven catchers at a time.

19 Q Okay. And were you responsible for  
20 making sure they did what they were supposed to do?

21 A We had to -- we had duties that we had  
22 to, you know, perform.

23 Q Okay.

24 A You know, to get the job done.

25 Q Okay. Let me show you this document,